



Government of Jammu and Kashmir  
Department of Food, Civil Supplies & Consumer Affairs  
Civil Secretariat, J&K,  
Jammu/Srinagar

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**Subject:-**Contempt Petition No. 80/2024 in A.O. 762 of 2023 titled Altaf Hussain Najar Vs Mr. Zubair Ahmad and Anr.-consideration order thereof.

**Government Order No. 50 - JK(FCS&CA) of 2024**

**Dated: 23-08-2024.**

Whereas; Sh. Altaf Hussain Najar, Sh. Maqbool Ahamd Mughal & Dilshada Banoo (applicants), retired, Incharge Deputy Controller preferred O.A No. 762 of 2023 titled Altaf Hussain Najar & Ors. Vs. U.T of Jammu and Kashmir & Ors., before the Hon'ble Central Administrative Tribunal, Srinagar, seeking following relief:-

- (1) *Issue an appropriate order or directions commanding the respondent department to release the grade of Rs. 15600-39100+6600 attached to the post of Deputy Controller retrospectively w.e.f. the date the applicants were placed as Deputy Controllers on in-charge basis.*
- (2) *Issue an appropriate order or direction commanding the respondents to release consequent service benefits in favour of the applicants in case above prayer is granted.*

Whereas; the aforementioned O.A was disposed of at the pre-admission stage by the Hon'ble Tribunal vide order dated 21-09-2023, operative part of which is reproduced as under:-

***"...the OA is disposed of at the pre-admission stage, with the direction to the respondents to treat the present OA No. 762/2023 as representation of the applicants and consider it in accordance with rules and law governing the subject.***

***The consideration be accorded in favour of the applicant within a period of eight weeks from the date of receipt of the certified copy of the order. In case the respondents shall***

***feel the applicant's personal hearing in the matter is required, same be accorded to them."***

Whereas; meanwhile, the applicant (Altaf Hussain Najar) has filed a Contempt Petition No. 80/2024 in A.O. 762 of 2023 titled Altaf Hussain Najar Vs. Zubair Ahmad and Anr. before the Hon'ble Tribunal, wherein, vide order dated 07.06.2024, the Hon'ble Tribunal directed as under:-

***" Learned counsel for the applicant has filed this contempt petition No.80/2024 alleging that the respondents have not complied the order passed by this Tribunal on 21.09.2023. Issue notice Mr. Numan Malik GA appears for the respondents, accepts notice and seeks six week's time to file compliance report. Six weeks time is granted.***

***List on 05.09.2024."***

Whereas; perusal of available record reveals that the department has issued the final seniority list of Assistant Controllers, LMD vide Govt. Order No. 15- CA&PD of 2016 dated 05.02.2016 which was agitated by the direct recruits of year 2012 and ultimately challenged by them before the Hon'ble High Court of J&K through SWP No. 1347/2016 and who also succeeded in obtaining court order in terms of which the respondent department was restrained from giving effect to further promotions in the department on the basis of seniority notified on 05.02.2016. The operative part of said order is as under:

***"Impugned seniority list shall not be given effect to for further promotions, regular or officiating."***

Whereas; the Hon'ble High Court has decided the writ petition SWP No. 1347/2016 vide Judgment dated 24.11.2017 and the final seniority list issued vide Govt. Order No. 15- CA&PD of 2016 dated 05.02.2016 as also the order of retrospective promotion of promotees promoted vide Govt. Order No. 65- CA&PD of 2012 dated 28.09.2012 were quashed. The operative part of the said order is as under:-

***"...For the reasons assigned in the preceding paragraphs, it is not necessary for this Court to examine several other contentions raised by the parties. The impugned order dated 05.02.2016 by which final seniority list of Assistant Controllers, (State Cadre) of Legal Metrology Department was issued is hereby quashed. The***



***order dated 28.09.2012 insofar as it pertains to retrospective promotion of respondents 3 to 8 as Assistant Controllers, Legal Metrology is also hereby quashed. The competent authority is directed to decide the objections preferred by the petitioners with regard to tentative seniority list by a speaking order after affording an opportunity of hearing to them within a period of two weeks from today and thereafter to issue the final seniority list depending upon the decision taken by the competent authority, the decision shall also be taken with regard to grant of benefit of retrospective promotion to respondents 3 to 8."***

Whereas; the private respondents (promotees) filed LPA No. 233/2017 titled Ajay Kumar & Ors Vs. State of J&K and Ors before Divisional Bench of Hon'ble High Court, wherein, the Hon'ble Court vide Order dated 21.12.2017 directed the Department as under:-

**"The respondent-department can prepare the tentative seniority list of Assistant Controllers and place it before this court for consideration on the next date of hearing before the Bench. Such list will be subject to the outcome of the appeal.**

**Considering the scope of the appeal and to balance the right of the appellants and that of the successful writ petitioners -respondents, it will be appropriate to stay the impugned order, insofar as it relates to quashing of the final seniority list as also the retrospective promotion. There will be an and ad interim order of stay above, till the next date of hearing"**

Whereas; in compliance to the order of the Hon'ble High Court passed in the LPA No. 233/2017 dated 21.12.2017, the tentative seniority list of the Assistant Controller (Gazetted/State Cadre) of Legal Metrology Department as it stood on 23.04.2018 forming as annexure-A has been issued by the Department vide No. CAPD/Legal/19/2016 dated 23.04.2018 for information of all the concerned. However, this list is further subject to outcome of LPA No. 233/2017 dated 21.12.2017 titled Ajay Kumar & Ors Vs. State of J&K and Ors, pending for disposal before Hon'ble High Court.

Whereas; it is pertinent to mention here that Shri Altaf Hussain Najar, Assistant Controller, Legal Metrology Department was placed as I/C Deputy Controller, Legal Metrology Department in his own pay and Grade with charge allowance as admissible under rules vide Government Order No. 133

FCS&CA of 2016 dated 23-08-2016 and the said placement, however, was not to confer any superior claim or right upon him at the time of his confirmation and was also subject to the outcome of the court case, if any pending in the court of law. Similarly, placement of Sh. M.A. Mughal & Mrs. Dilshada Banoo, as Deputy Controller in the year 2012 & 2013 respectively was also in their Own Pay & Grade (OPG).

Whereas; the contention of the applicants were considered in the department and it came to fore that confirmation/promotion of the applicants along with some other officers in similar situation could not made in the department as of now for want of final seniority list which is sine qua non for considering confirmation/promotion to next higher post and which can not be finalized without orders of the Hon'ble Court to that extent.


Whereas; the placement of the said officer was made by the Department in the year 2016 in terms of seniority list issued vide Government Order No. 15-CAPD of 2016 dated 05-02-2016, which was quashed by the Hon'ble High Court vide Judgment dated 24.11.2017.

Whereas; the Department has already placed a tentative seniority list of Assistant Controller (Gazetted/State Cadre) of Legal Metrology Department as it stood on 23-04-2018 before the Hon'ble High Court (In terms of the Hon'ble High Court Order dated 21-12-2017 in LPA No. 233/2017 titled Ajay Kumar & Ors V/s State of J&K and Ors). However, no final directions/court order has been received yet in the said case.

And whereas; in view of the peculiar situation faced by the department as a consequence of litigation brought in by direct recruits & promotees and also due to non-availability of the final verdict from the court, the Department is not in a position to finalise the seniority list and conduct the DPC in respect of the applicants for confirmation/regularization of their promotions as Deputy Controller.

Now therefore; in compliance to the Orders of the Hon'ble Central Administrative Tribunal passed in O.A. 762 of 2023, matter has been examined and the claim of the applicants is found devoid of merits, being premature at this stage, until conclusion/disposal of LPASW No. 233/2017 titled Ajay Kumar & Ors Vs. State of J&K and Ors (c/w LPASW No. 234/2017, LPASW No.04/2018, LPASW No.05/2018 & SWP No.1150/2018), which is pending adjudication before Hon'ble High Court.

By order of the Government of Jammu and Kashmir

  
Under Secretary to the Government  
Department of Food Civil Supplies and Consumer Affairs

No: 7314946 /FCSCA-Legl/115/2023

Dated: 23-08-2024.

Copy to the:-

1. Joint Secretary, (Jammu-Kashmir and Ladakh) Ministry of Home Affairs, Government of India, New Delhi.
2. Controller, Legal Metrology Department, J&K.
3. Director, Achieves, Archeology and Museums, J&K.
4. PPS to Chief Secretary.
5. Private Secretary to the Commissioner/Secretary to the Government, FCS&CA.
6. Incharge website, FCS&CA.
7. Sh. Altaf Hussain Najar, applicant for information.
8. Government Order file/stock file.

A handwritten signature in black ink, consisting of several loops and a vertical line extending downwards.